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March 21, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW Room 222
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: WT Docket No. 95-5
Notice of Proposed Rule Making

Dear Mr. Caton:

Enclosed are ten copies (original and nine) of the comments prepared by this office in the Notice of Proposed Rule Making, *"In the Matter of Streamlining the Commission's Antenna Structure Clearance Procedure and Revision of Part 17 of the Commission's Rules Concerning Construction, Marking and Lighting of Antenna Structures"*.

If there are any questions or comments concerning this filing, please contact the undersigned.

Sincerely,

Donald G. Everist

DGE:cc
Encl.

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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
Streamlining the Commission's Antenna Structure Clearance Procedure	)	
and	)	**WT Docket No. 95-5**
Revision of Part 17 of the Commission's Rules Concerning Construction, Marking and Lighting of Antenna Structures	)	

Notice of Proposed Rule Making

These comments have been prepared by the consulting engineering firm of Cohen, Dippell and Everist, P.C. ("firm") concerning the Commission's Notice of Proposed Rule Making ("NPRM") in WT Docket No. 95-5. The firm, or its predecessors, is a consulting engineering firm and have been engaged in telecommunications related matters and submission of technical filings to the FCC since 1937.

This firm commends the Commission in trying to develop a system whose purpose would streamline the tower identification process. The express purpose of the tower identification method is to consolidate all pertinent information into a repository for future reference relating to licensing of all broadcast and non-broadcast telecommunications facilities.

However, the proposal does not identify how the Commission will integrate the information nor how it will resolve inconsistent information. For example, it is not clear when the registration would be integrated into the licensing process. Towers support a wide variety of antennas licensed to broadcasting, wireless, etc. Many of these towers can have multiple entries, coordinates, FAA study numbers, etc. This has resulted in the licensing of operations on the same tower for which have conflicting multiple and facility information. When does the proposed procedure reconcile the information on each licensee for which an operation is identified? When an FCC inspection is performed, how does the Commission staff handle or resolve conflicting information during the transition period?

Further, how long does the Commission envision this transition process to occur and how will governmental operations such as Forest Service, FBI, etc., located on that tower be handled?

Also, attention is directed to the use of towers once coordinated with governmental authorities for which there is no documentation. For example, in the period 1960 through 1980, there were many instances when the government (the FCC and the FAA) did not want a filing for a tower to occur[1]. It was assumed that the proposed structure was in compliance if it was in compliance with the then airspace environment. The presumption was that if a tower met FAA guide path requirements and was less than 200 feet high, or did not increase the structure

[1]Very often if there was a question regarding a proposed tower placement or height, a call was placed to either appropriate FCC or FAA official and the airspace issue was resolved.

by more than 20 feet, an FCC license could be issued. This firm has also encountered instances where towers less than 200 feet were coordinated but not entered into the data base.

This firm has been finding that the Commission is routinely flagging these towers that previously had been presumed to be informally coordinated and it is now requiring them to be coordinated. It seems that this flagging process is performed by an unknown FCC computer program, a copy of which this office has requested, but has not been able to acquire. Without the benefit of analyzing this computer program, we have concluded that it appears that the program assumes that airport facility would require airspace protection in all directions. A classic example is where one tower recently identified by the Commission was 100 foot high which was located 2.9 miles from a small airport[2] in the middle of a major city. This tower was constructed over fifteen (15) years ago and the FCC routinely licensed various operations on this tower. Over six months have elapsed since the FCC staff indicated that there was an airspace problem, and there has been no indication from the FCC staff in response to the licensee's showings. This office has made several inquiries, however no return call has been received. Has the Commission anticipated how many thousands, perhaps tens of thousands, of such structures were informally coordinated? Is the Commission or the FAA prepared to restudy all these structures, and what if the structures are now identified to be in violation of airspace

[2]This small airport in fact did not have a runway in the direction of the tower, and apparently no consideration was given whether it had, intervening terrain which would shield the tower. It is inconceivable that the FCC could flag a 100 foot tower in the middle of an urban setting for which the height of trees are on the order of eighty (80) feet.

due to later airport or airspace policy construction or modification?[3] Are the structures for which FCC licensing has been routine now to be condemned or subject to intense scrutiny? Are facilities to be dismantled and shut down while the FCC or FAA take endless months to make a determination?

Another issue arises concerning wide structures or buildings since multiple antenna locations with different coordinates may be employed on such structures. This firm recommends that multiple certifications be permitted. If the FCC concludes that structure coordinates should be used, where are they determined? Also what if these structure coordinates short space another operation when in fact the coordinates do not describe the actual antenna placement?

Will the FAA and FCC begin a program that identifies the location of all building structures and the associated elevations in case the roof-tops or building sides are licensed for various telecommunications facilities, including PCS? If P.C.S. antennas are placed on utility poles and pylons, will they also require FCC and FAA registration?

Another question arises concerning AM directional arrays which utilize more than one tower. Traditionally, the center of the array has been assumed as the reference site. This firm sees no reason for changing this approach.

This firm supports the concept of geographic filing windows and we believe monthly access similar to the Commission's broadcast data base would be appropriate. In fact, it may be possible to have the AM, FM and TV data base include the pertinent registration number and

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[3]For example, the Commission required FAA coordination of an 80 foot pole for which it had over the past 4 years issued construction permits and licensed facilities. This pole was immediately adjacent to a 130 foot structure which was identified as an old oil derrick constructed over fifty (50) years ago.

associated information. Further, we believe such a massive undertaking should be performed by the FCC staff and consideration should be given to grandfathering provisions.

In summary, this firm urges the Commission to carefully review the consequences of adopting any new rules concerning antenna tower structures since they are likely to impact a substantially large number of communications operations. Without the Commission adopting effective and streamlined procedures, there is concern of processing delays of applications and unnecessary burdens on licensees to resolve conflicting information.

Respectfully Submitted,

Donald G. Everist, President
Professional Engineer
D.C. Registration No. 5714

DATE: March 21, 1995